

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER: 98-0331
ADJUSTED GROSS INCOME TAX
For Years 1995 AND 1996**

NOTICE: Under Ind. Code § 4-22-7-7, this document is required to be published in the Indiana Register and is effective on its date of publication. It shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register. The publication of this document will provide the general public with information about the Department's official position concerning a specific issue.

ISSUES

I. Adjusted Gross Income Tax—Adequate Documentation

Authority: 45 IAC 15-5-4; IC § 6-8.1-5-1; IC § 6-8.1-5-4

Taxpayer protests the proposed assessments of Indiana's adjusted gross income tax.

STATEMENT OF FACTS

In the course of taxpayer's business operations taxpayer received income for the tax years at issue but taxpayer did not file individual returns for these years. A departmental audit assessed the taxpayer on adjusted gross income tax that should have been individually reported by taxpayer. The taxpayer filed late returns for the years in question, which resulted in a reduction in the assessment; however, the taxpayer did not produce any documents or arguments as to the remainder of this assessment. Taxpayer and his representative then filed a protest, claiming the documents and/or taxpayer's position would be presented at the hearing.

I. Adjusted Gross Income Tax—Adequate Documentation

DISCUSSION

At the hearing, taxpayer's representative stated that records would be made available within a specified time period. Said records were not provided within the time period, nor has taxpayer provided any indication that said records will be produced.

This issue revolves around the burden of proof in an audit situation, which IC § 6-8.1-5-4 defines as:

Every person subject to a listed tax must keep books and records so that the department can determine the amount, if any, of the person's liability for that tax by reviewing those books and

records. The records in this subsection include all source documents necessary to determine the tax, including invoices, register tapes, receipts, and canceled checks.

Taxpayer does not cite any statute, regulation, or case law for the proposition that the auditor was required to accept taxpayer's assertions as to the nature of the transactions without any supporting documentation. Nor has taxpayer asserted any argument as to why the Department's assessment should be reduced or abated. Pursuant to the above statute and the requirements of IC § 6-8.1-5-1 and 45 IAC 15-5-4, taxpayer has failed to establish a basis for reversal of this assessment.

FINDING

Taxpayer's protest is denied.

JM/MR--021508